

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Division of Fish and Wildlife
Marine Fisheries

2008 Management Plan for the Crustacean Sector

Developed in association with the
Commercial fishing licensing provisions set forth in the
“Rules and Regulations Governing the Management of Marine Fisheries”

December 7, 2007

These rules and regulations are promulgated pursuant to Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02-047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES

FISH AND WILDLIFE &
LAW ENFORCEMENT

PURPOSE

The purpose of these rules and regulations is to manage the marine resources of Rhode Island.

AUTHORITY

These rules and regulations are promulgated pursuant to Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02-047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

ADMINISTRATIVE FINDINGS

Rules and regulations are based upon the need to modify existing regulations (RIGL 20-3-2 through 20-3-6).

APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

DEFINITIONS

See Rhode Island Marine Statutes and Regulations, Part I, '1.3.

SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of this regulation shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

Rhode Island Crustacean Fishery Management Plan 2007

Introduction:

Rhode Island general law pertaining to commercial fishing licenses requires that the Director of DEM develop conservation and management plans in support of regulations that may restrict the issuance of licenses (RIGL 20-2.1-9(5)). Restrictions on commercial licenses were clearly contemplated by the Rhode Island General Assembly as a means to limit fishing effort and to rebuild depleted fishery resources (RIGL 20-2.1-2, 20-3.1-2 (4)). Such plans are to be developed with advice from the Rhode Island Marine Fisheries Council (RIGL 20-2.1-10) and shall focus on fishery resources with the greatest value to the state. The current DEM commercial licensing program recognizes three fishery sectors; crustaceans, finfish, and shellfish. The following is the plan for the crustacean sector with recommendations for licensing in 2008. Two crustacean sector license endorsements, lobster and crustaceans other than lobster (crabs) are offered by DEM and are considered here. This plan emphasizes American lobster in recognition of their great commercial and recreational value to Rhode Island citizens. The 2007 licensing plan recommended no new lobster licenses in view of the poor resource status and ongoing management activities designed to rebuild the lobster resource in the Rhode Island area.

American Lobster:

Stock Status and Rebuilding Potential- The lobster resource in Narragansett Bay and Rhode Island coastal waters was over exploited for many years (ASMFC 1996, 2000, Gibson 2000). A stock decline in 2002 prompted the Atlantic States Marine Fisheries Commission (ASMFC) to initiate remedial action in lobster management Area 2 which includes Rhode Island state waters. An ASMFC subcommittee of lobster biologists and stock assessment scientists was convened to examine the problem and in January of 2003, issued a report that recommended reducing lobster landings in area 2 by 73% (ASMFC 2003a). In February 2003, the ASMFC adopted an accelerated minimum gauge schedule for Area 2 by emergency action. Further, the board authorized development of Addendum IV to the ASMFC lobster fishery management plan. It was adopted in the fall of 2003 with an implementation date of June 1, 2005. Important elements of Addendum IV included increases in minimum legal size, increases in escape vent dimensions, and an effort control program. The initial effort control plan offered by industry was deemed inadequate and rejected by the ASMFC. Additional guidance to the Area 2 states from the ASMFC on effort control was provided at the August 2004 and May 2005 lobster management board meetings. A key requirement for a revised plan was that trap effort should be capped at or near current levels with the possibility of adjustments pending new stock assessment results. "At or near current level" was clarified to mean within 20-30% of 2003 trap deployments as recorded in industry logbooks. In response, industry and managers developed Addendum VII that employs a history based effort limitation approach along with provisions that allow for transfers of pots between businesses. Addendum VII was adopted by ASMFC at their November 2005 annual meeting. State regulations to implement addendum VII were developed and aired at public hearing on

May 15th, 2006. The Rhode Island Marine Fisheries Council (RIMFC), an advisory body to DEM, considered the regulations and public comments at there June 5th, 2006 meeting. They recommended to the Director of DEM that the regulations be adopted.

Agency trawl surveys clearly document the abundance decline that triggered the ASMFC emergency action in Area 2. Rhode Island Division of Fish and Wildlife (RIDFW) surveys conducted in Narragansett Bay and Rhode Island coastal waters since 1979 show that local lobster abundance dropped from high levels in the mid-1990's to low levels in 2002-2003 (Figures 1). Although recent surveys have caught more lobster, abundance has not recovered to former levels. URI scientists have observed a similar pattern in lobster catches made by the Graduate School of Oceanography survey in state waters (Figure 2). Both Massachusetts and Connecticut have reported lobster declines to the east in Buzzards Bay and to the west in Long Island Sound. The decline in abundance of both sub-legal and legal lobster from 1997 to 2002 was preceded by a steep decline in the abundance of newly settled lobster from 1990 to 1996 (Figure 3). New settlers descend to the bottom from the plankton each summer having been hatched from eggs carried by females during the preceding year. These abundance patterns are consistent with the generally accepted time lag of 6-7 years between first settlement and attainment of adult size. The available data indicate that declining abundance at the youngest benthic stage began early in the decade before the 1996 North Cape oil spill and the 1997 outbreak of shell disease, reducing recruitment to the adult stock. It is not clear why settlement declined although it was coincident to over fishing that reduced stock reproductive potential (ASMFC 1996, 2000). A shortage of local egg production is unlikely the cause, as trawl surveys and fishery sampling showed above average abundance of mature-size lobster. Declining settlement was however correlated with a downturn in the North Atlantic Oscillation index (Figure 4). The NAO index measures the difference between barometric pressure in Iceland and the Azores (Drinkwater and Mountain 1997). A positive pressure differential is associated with strong westerly winds across the North Atlantic Ocean, a condition that could facilitate delivery of surface larval lobster from offshore to inshore areas. Katz et al. (1994) showed through analysis of ocean currents and larval swimming behavior that such a subsidy was possible. Climatic and oceanographic control over larval delivery and survival has also been hypothesized by Wahle et al. (2006) based on coherent settlement patterns on spatial scales as large as RI to ME. In addition to reduced settlement, shell disease, oil spills, and increasing predation by finfish have likely increased the natural mortality rate and reduced the number of lobster surviving from settlement to legal size. The combined effects of reduced settlement and declining post-settlement survivorship have impacted the fishery, reducing recruitment, landings and catch per unit effort (CPUE) to low levels (Figure 5). It is worth noting that juvenile settlement improved to average levels in 1997-1999 (Figure 3). Given the time lag from settler to adult, the increases in legal abundance observed in 2004-2006 are not unexpected. On a cautious note, settlement from 2002-2006 was relatively low suggesting that a return to very high stock levels is unlikely in the foreseeable future.

The ASMFC lobster technical committee has updated the coast-wide lobster stock assessment including evaluation of new models that can consider increased natural

mortality rate. They have also revised their definitions of stock areas and made recommendations for new biological reference points. National and international stock assessment experts have completed a peer review. The ASMFC lobster management board, at their November 2005 annual meeting, accepted the assessment results and peer review which have since been published for public information (ASMFC 2006a, 2006b). The new assessment showed that the southern New England stock of lobster, spanning the region from Cape Cod to New Jersey, is at low abundance and subject to excessive fishing mortality rates. The peer review panel concurred and summarized their findings by stating;

“It is the future that leads to the greatest peril for the lobster resource. It would only take a sequence of two or three years of poor recruitment to collapse any component of the lobster resource and the appearance of extremely low recruitments in recent times in some areas is a cause for concern if not alarm. Until the harvest strategy is revised to provide a buffer of mature adult spawners to cover the bad times, lobster fishery management is a time bomb waiting to explode, its fuse lit by recruitment failure.”

In response to the assessment and peer review, the ASMFC lobster management board authorized development of a draft public information document (PID) that could lead to Amendment V of the interstate fishery management plan for lobster pending public comment and further board deliberations. A Rhode Island hearing on the PID is scheduled for September 19th, 2006.

The above cited assessment results and peer review comments pertain to a broader stock area than the Rhode Island marine waters under jurisdiction of the state. To support Rhode Island 2007 licensing recommendations as required under RIGL 20-2.1-9, the Gibson (2000) biomass dynamic model (BDM) assessment for lobster in Rhode Island was updated. This method is useful for assessing stocks for which age determination is difficult. In addition to estimating stock size and fishing mortality rates (F), a BDM estimates biological reference points based on maximum sustainable yield (MSY). Data required are a time series of fishery landings and a biomass index along with any auxiliary estimates of F or stock biomass to tune the model. A significant advance for this BDM iteration was calibration of the model to biomass estimates made from v-notch lobster recaptures (Gibson and Angell 2006). Biomass dynamic models are a mass balance approach in which stock biomass in a new year is the sum of last year's biomass plus new production minus the catch removed (Hilborn and Walters 1992). New production is the net balance between additions from growth and recruitment and losses from natural causes. Application of the BDM to data for the Rhode Island inshore lobster fishery revealed that F has declined in recent years (Figure 6). Landings for 2006 are incomplete so the 2005 estimate of F is the most reliable and is below that associated with MSY . Fishery managers generally set a target F somewhat below the threshold F_{msy} as a precautionary measure in the face of scientific uncertainty. While over fishing ($F > F_{msy}$) occurred from 1969 to 1987 and 1998 to 2003, fishing mortality in 2005 was about 80% of F_{msy} . Therefore, the resource is considered fully exploited and not now subject to over fishing. The recent decline in F for lobster in the Rhode Island area is encouraging and consistent with data showing that fishing effort is declining. Three independent data

sets, (pots fished as recorded in industry logbooks, pot-hauls estimated from landings and observer CPUE, and trap tags ordered by industry) show that effort is well below the high levels that occurred in 1999-2000 (Figure 7). The reduction in F is also consistent with a local v-notching program designed to replace lobsters lost in the 1996 North Cape oil spill. Large numbers of legal size female lobster have been rendered unmarketable by the program thereby reducing the F rate on female lobster (Gibson and Angell 2006). Stock biomass (B) is responding but remains below that needed for MSY (Figure 8). A resource is considered over fished until B exceeds B_{msy} . Over fishing is distinguished from over fished in a temporal sense with the former representing current F rate at or above its MSY reference level while the latter represents past F rates that have lowered B below its MSY reference level.

Projections of stock size into the future indicate that the stock can rebuild to near the B_{msy} reference level in 3 years if F remains below F_{msy} (Figure 9). Industry attrition and the v-notching of females has clearly reduced fishing mortality from 2000 to 2005, so that biomass recovery is possible, although an important caveat is the assumption of normal stock productivity. The ASMFC technical committee believes that natural mortality rate (M) has increased for lobster in the Rhode Island inshore area. BDM assessment runs incorporating a tripling of M from 1997-2005 in accordance with the outbreak of shell disease showed that larger F reductions than indicated above would be needed to rebuild the stock. Persistent high M may limit the amount of rebuilding that can occur and remains an important research topic.

Management Program- Lobsters are managed within state waters by the Rhode Island Department of Environmental Management (RIDEM) with advice from the Rhode Island Marine Fisheries Council and RIDFW. Regional management of the lobster resource is the responsibility of the ASMFC. Amendment 3 to the fishery management plan (ASMFC 1997) and associated addenda govern the interstate management program and peer reviewed coast wide stock assessments (ASMFC 2000, 2006a) provide information on lobster biology and resource status. The ASMFC management program is organized by lobster management area with Rhode Island state waters part of Area 2. RIDEM complies with the Area 2 plan through a set of management measures that includes minimum gauge and escape vent sizes, trap limits, and protection of egg-bearing females. Both state (RI-MA) and federal waters are included in Area 2 making cooperative management essential. The current plan for Area 2 initially required a reduction in trap deployment to 800 in addition to a set of gauge and escape vent size increases in order to rebuild egg production to the minimum $F_{10\%}$ level. As noted above, these measures have been augmented with additional restrictions via the ASMFC plan addendum process. Addendum VII was released for public comment in August of 2005 and approved by the ASMFC lobster management board on October 31. Adjustments to the effort control program in response to the new coast-wide lobster stock assessment may occur under Amendment 5.

The RIDFW began implementation of Addendum VII in October 2006 with an Area 2 trap allocation application process for all eligible resident state license and federal lobster permit holders. Qualified applicants were sent notification of RIDFW's determination of

their initial Area 2 lobster trap allocation. A data dispute process was engaged to attempt resolve lobster landings and trap deployment data correction claims. The majority of data disputes were resolved, eliminating the need to proceed to the administrative adjudication appeal process. An administrative adjudication appeal process was also available for applicants that were unable to resolve the data dispute claim or who claimed medical or military service hardships during the years used to qualify for an Area 2 trap allocation (2001-2003). The administrative adjudication appeal process has been active since February 2007, with nearly 100 applicants filing for an administrative adjudication hearing. Hearings will continue throughout 2007 and have been scheduled into January 2008.

The Addendum VII plan is also structured to include transferability of lobster trap allocation, and includes a 10% conservation tax on trap allocation transfers which is expected to result in further reductions in the amount of traps deployed in Area 2 over time. The transferability provisions for Addendum VII are currently under development, but have not been implemented at the present time.

Fishery Management Goals and Objectives -

Goal- The following goal is adapted from the coast wide goal of the Atlantic States Marine Fisheries Commission (ASMFC 1996).

Rhode Island will have a healthy American lobster resource and a fishery management regime, which provides for sustainable harvest, cooperative management by stakeholders, and appropriate opportunities for fishery participation.

Objectives-

1. Maintain fishing mortality rates and brood stock abundance at levels, which minimize the risk of stock depletion and recruitment failure.
2. Extend size-age composition of the resource and increase yield per recruit in the fishery while maintaining harvest at a sustainable level.
3. Maintain existing social and cultural characteristics of the fishery wherever possible
4. Promote economic efficiency in harvesting and use of the resource
5. Provide for adaptive management that is responsive to unanticipated short-term events or circumstances.
6. Increase understanding of American lobster biology and improve data collection, stock assessment models, and relationships between harvesters and scientists.

Licensing Options and Recommendations-

Current Rhode Island lobstermen fishing in state waters must hold either a multipurpose license, lobster principal effort license, or commercial fishing license endorsed for lobster to fish for lobster, as allowed for by existing state and ASMFC regulations. The licensing

statutes require that the Director of DEM specify by rule the status of the lobster resource each year and the availability of new lobster licenses. A limited number of individuals were issued limited access, basic commercial fishing licenses in 2003. These licenses allowed for a 100-pot deployment rather than the 800 pot, full access deployment. As a result of implementation of Addendum VII, all license holders are now limited to fishing a number of traps based on their individual lobster landings and trap deployment history during the years 2001-2003 (or 1999-2000 in cases of a proven medical or military service hardship during the years 2001-2003). No lobster licenses were recommended or issued by RIDEM for 2004- 2007 , and none are recommended by RIDEM for 2008. Licensing renewal data for 2003-2007 show a similar level of attrition as the fishing effort data given above (Table 1). Between 2003 and 2007, there has been a 19% decline in the number of licenses applicable to lobster.

RI Marine Fishery Council Advice- the Industry Advisory Committee (IAC) of the RIMFC, required under RIGL 20-2.1-11, has met twice to formulate advice for the Council on licensing. One proposal brought forward by this group was to open new lobster endorsements for resident individuals who can provide proof that they have obtained a lobster trap transfer from an active lobster fisherman. This proposal is pending a decision on a lobster trap transferability program in RI. The RIMFC recommendation to the Director was to issue a PEL with a lobster trap endorsement to people who are residents, have obtained trap allocation transfers through the pending allocation transfer program, and can show proof of purchase. In addition, the RIMFC recommends repealing the 100-pot basic gear and harvest level.

RIDFW Recommendations- It is clear from the above information that the regional lobster resource is over fished and has undergone a decline in abundance and fishery performance. The decline has imposed substantial economic hardship on industry that has responded with attrition. Recently, the local stock has shown signs of increase but biomass remains below that needed for MSY. The regional rebuilding effort undertaken by the ASMFC has not yet been completed. Additional restrictions will be placed on existing fishers in 2007-2008 via addendum VII and Amendment 5 to the interstate fishery management plan including a prohibition on issuance of new area 2 permits. This prohibition includes state lobster licenses and landing permits applicable to lobster. The finding of over fished resource status (biomass below B_{msy} level) is inconsistent with Rhode Island fishery conservation standard A of RIGL 20-2.1-9. In view of ASMFC compliance requirements and state law, it is recommended that no new lobster licenses be issued for 2008. The state should continue to work with the RIMFC and ASMFC to further reduce fishing mortality and to rebuild the lobster resource throughout the region. Attrition is clearly occurring in the industry and contributing to reduced fishing effort. The state has taken action to neutralize latent effort so that it cannot activate as resource conditions improve. Future participation in Area 2 was based on historical performance and the state has reviewed lobster licensing and made appropriate changes in preparation for limited access-historical performance. When stock status warrants and harvesting capacity matches resource productivity, allowances for new licenses could be developed in consultation with industry, the RIMFC, and the ASMFC.

The Director of DEM decided to retain the existing Lobster (fishery sector) endorsement, and make it available to all allocation recipients, those who are involved with, and can prove, their acquisition of a lobster pot allocation. Further the Director decided to repeal the 100 pot entry level license, as the new lobster effort control regulations render it obsolete.

Other Management Considerations-

Industry is working closely with the ASMFC and RIDFW to implement the effort control program approved by the ASMFC lobster management board. Continued agency/industry cooperation is needed as implementation of transferability and historic participation schemes proceeds throughout the region. These programs, although controversial in some quarters, provide the best long-term mechanism to reduce lobster fishing effort. Industry has also expressed support for a replacement for the North Cape v-notching program that ended in July of 2006. As noted above, this program has reduced fishing mortality rate on female lobsters locally and egg production by v-notched females is now a substantial component of egg production (Figure 10). Evaluation of this program in the context of achieving ASMFC stock rebuilding targets should occur. To that end, DEM strengthened v-notch protection by implementing a more restrictive v-notch definition on September 12, 2006. The intent was to increase the longevity of v-notched lobsters and encourage industry to practice voluntary notching. Finally, industry supports continuation of the un-vented trap survey begun in 2006 as the primary abundance-monitoring tool for lobster. Continued federal funding to Rhode Island is needed to continue this survey.

Other Crustaceans:

Stock Status- The commercial crab fishery in state waters is relatively small with landings of green, Jonah, rock, and blue crabs being made. Total Rhode Island landings of these species is currently about 2.3 million pounds and worth about 1.9 million dollars. However, only a small amount of this is taken from state waters. Landings of deep-sea red crabs are also made but these come strictly from federal waters and participation is limited by federal permit. The local cancer crab stock was assessed by RIDFW for the first time for this licensing cycle. Fishing mortality rate has recently approached the F_{msy} level (Figure 11) and should be monitored in the future. Biomass however was above the B_{msy} level so the Rock and Jonah crab resource is not considered over fished at this time (Figure 12). There is not sufficient data to assess other crab species in state waters at this time. The introduction of the Japanese shore crab (*Hemigrapsus sanguineus*) has been noted and may have as yet unknown consequences for other crab species.

The horseshoe crab, although not a true crab, is also harvested. Horseshoe crabs in Rhode Island were found to be over fished and at low abundance in the first RIDFW assessment (Gibson and Olszewski 2001). A commercial quota system with additional seasonal harvest restrictions has been instituted and landings have been reduced. An update of the stock assessment shows that while fishing mortality rate has been reduced to below the F_{msy} reference point, stock abundance has not yet recovered toward B_{msy} (Figures 13 and 14).

Management Program- Horseshoe crabs and crustaceans other than lobster are managed in state waters by the Department of Environmental Management with advice from the Rhode Island Marine Fisheries Council. The Department uses seasons, quotas, and possession limits to manage the state waters fishery. Compliance with an ASMFC management plan is required in the case of horseshoe crabs and is achieved with a commercial quota and permitting system.

Fishery Management and Licensing Recommendations- . Crab landings and abundance are stable and no new restrictions are needed. The spawning period closures have greatly restricted the horseshoe crab fishery and reduced fishing mortality rates. No additional limits are needed at this time. New commercial licenses for these species need not be limited and can have harvest levels equal to current licensees. The permit to harvest horseshoe crabs could be added as an endorsement through the office of Licensing. In order for the Division to react in a timely fashion to fishery landings, the reports should continue to be submitted in the current manner. However it should be noted that with un-restricted access to the horseshoe crab fishery, the likelihood of an early closure date due to an exhausted quota is high. With a quota based management regime there is no biological reason for limiting access however as effort increases so do landings.

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Table 1- Rhode Island Lobster License Issuance Data 2003-2006

License Type	2003	2004	2005	2006
Multipurpose Licenses	1191	1135	1075	1017
% lobster declared	0.213	0.213	0.221	0.222
MPL for Lobster w/800 pot	254	242	238	226
Principal Effort Lobster w/800 pot	61	56	52	46
Commerical Lobster w/100 pot	50	48	41	38
Total Effective Lobster Licenses	321	304	295	277

Fig.1- Lobster Abundance in the RIDFW Seasonal Trawl Survey in Narragansett Bay and RI Coastal Waters, 1979-2006

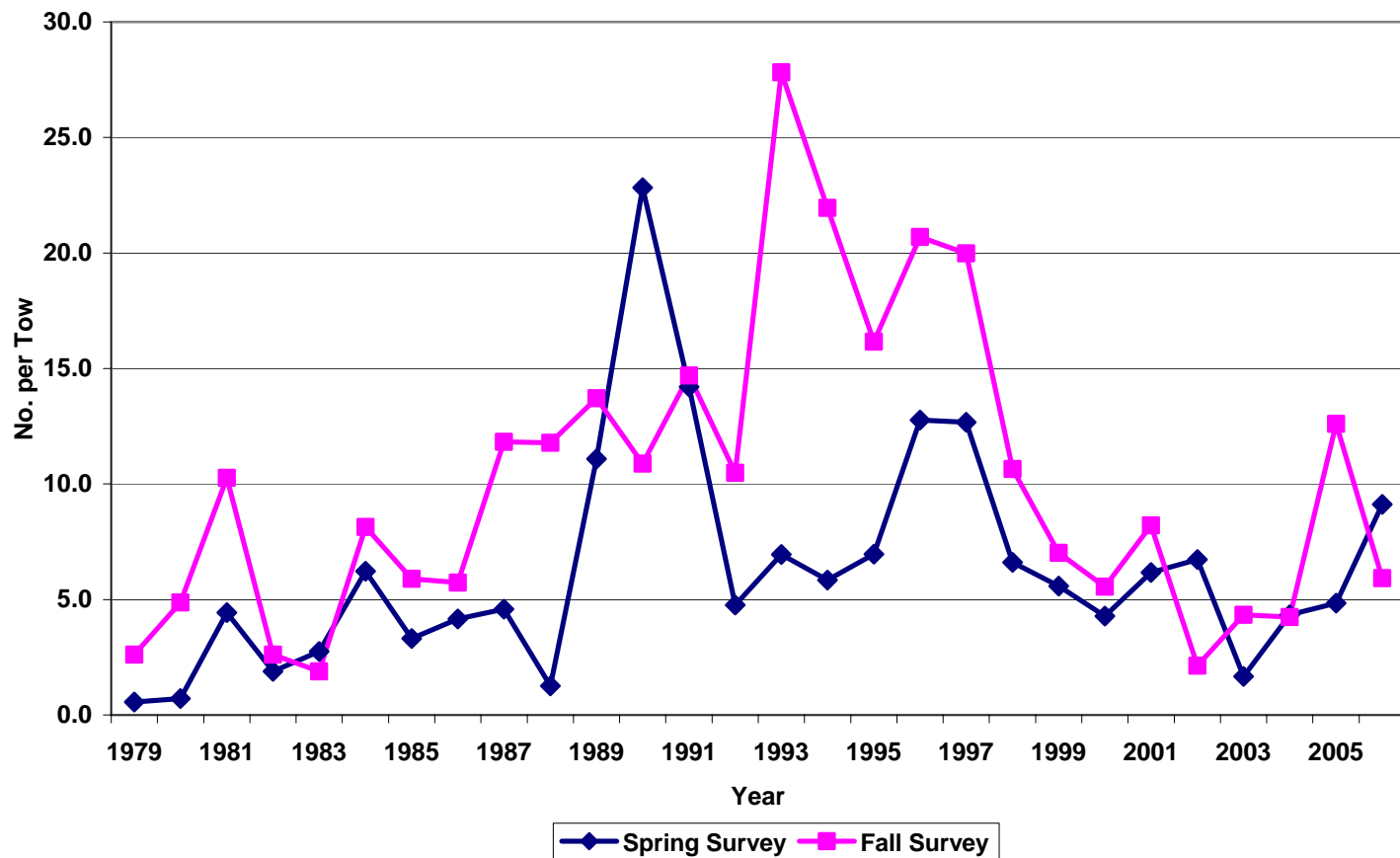


Fig.2- Lobster Abundance from the URIGSO Trawl Survey

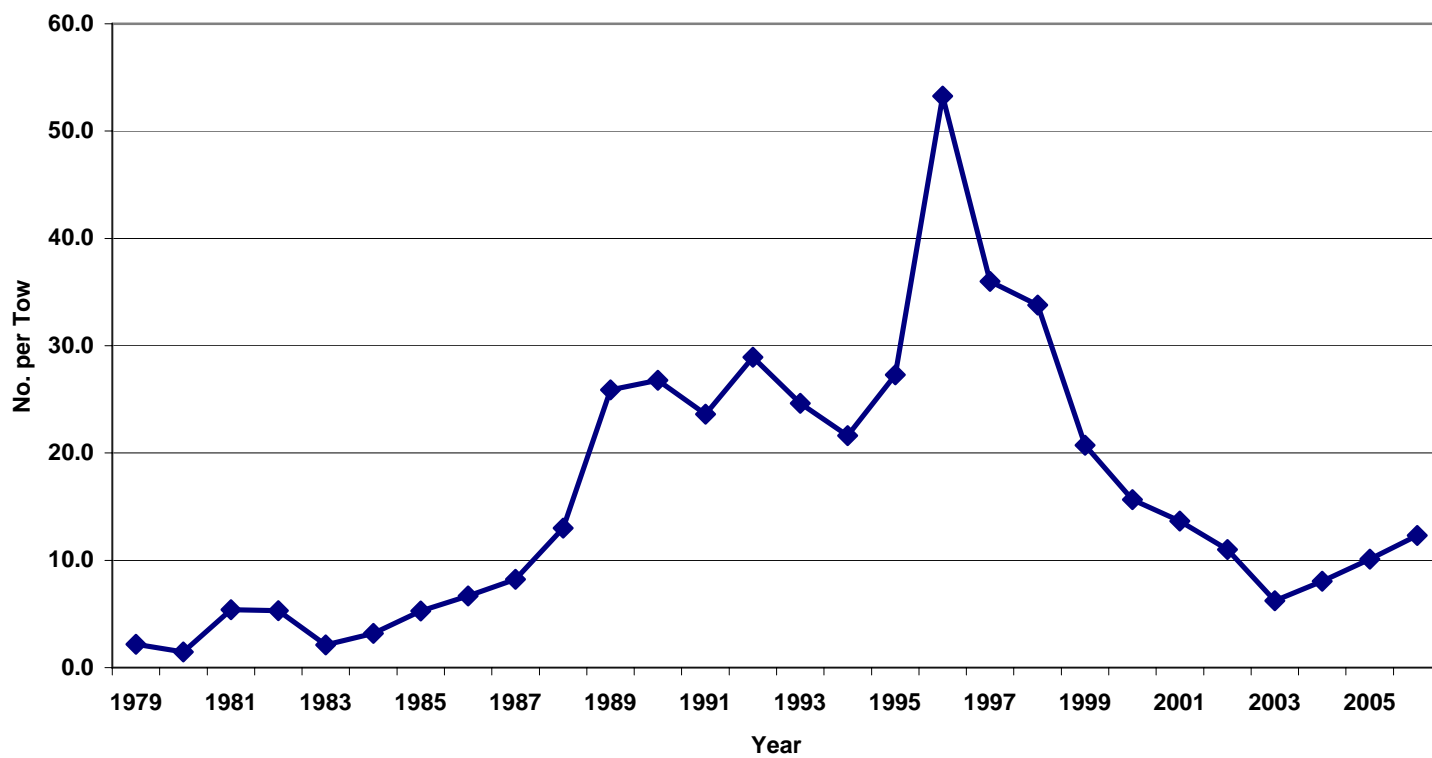


Fig. 3- Abundance of Newly Settled Lobster in Rhode Island from Wahle Dive Survey

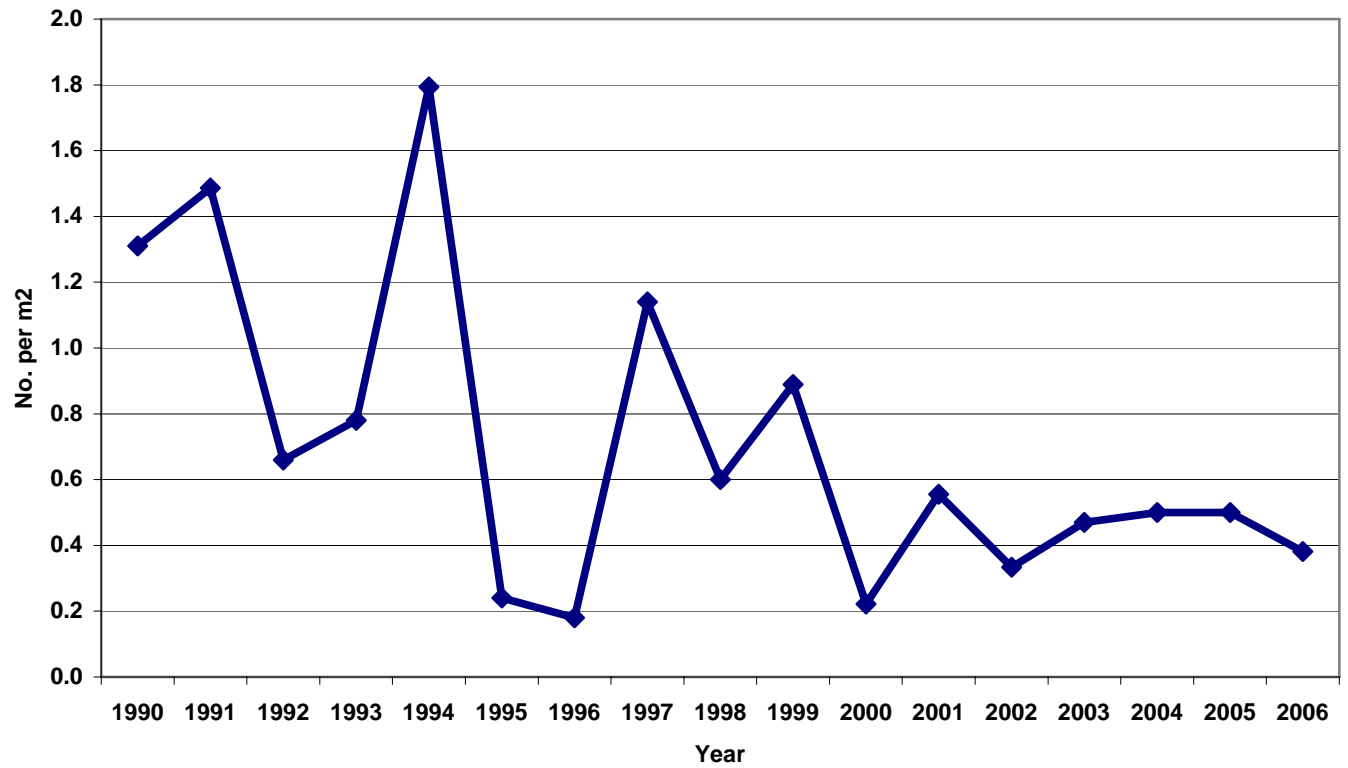


Fig.4- Correlation Between RI Lobster Settlement and Smoothed North Atlantic Oscillation Index

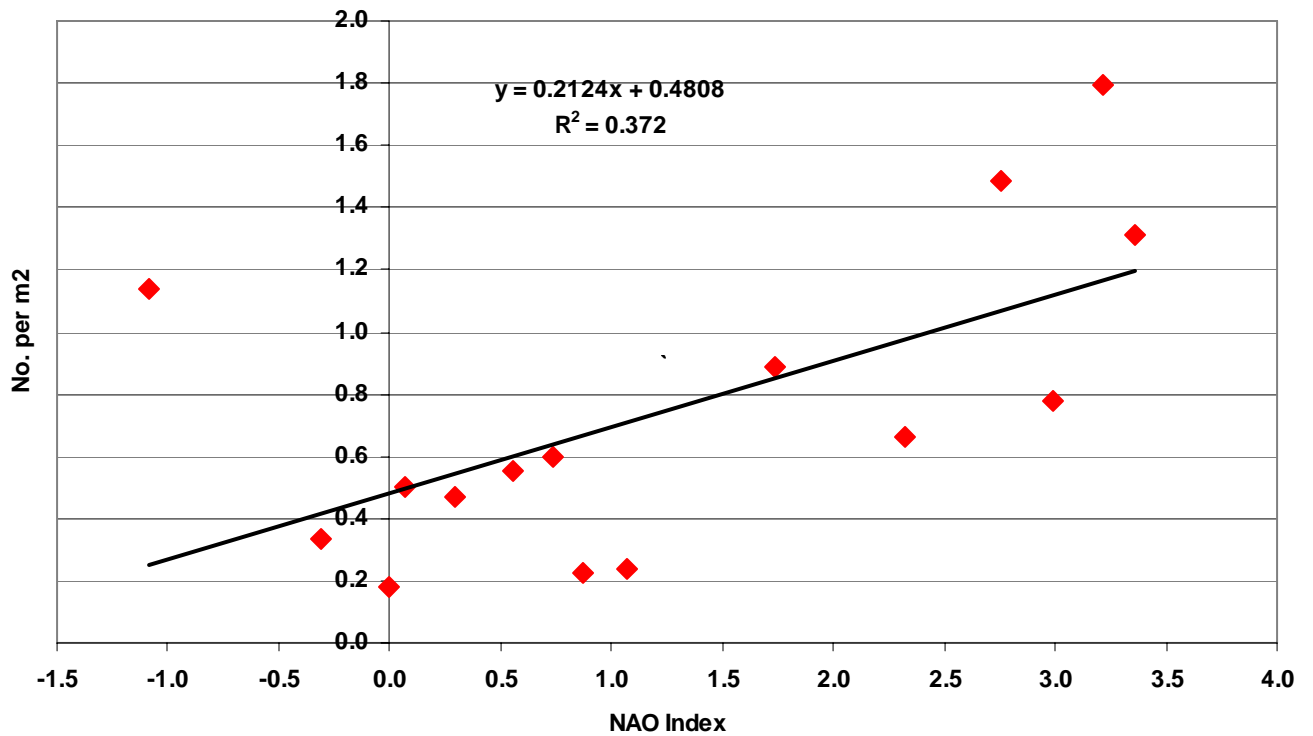


Figure 5- RI Inshore Lobster Landings and Fishery Catch per Unit Effort

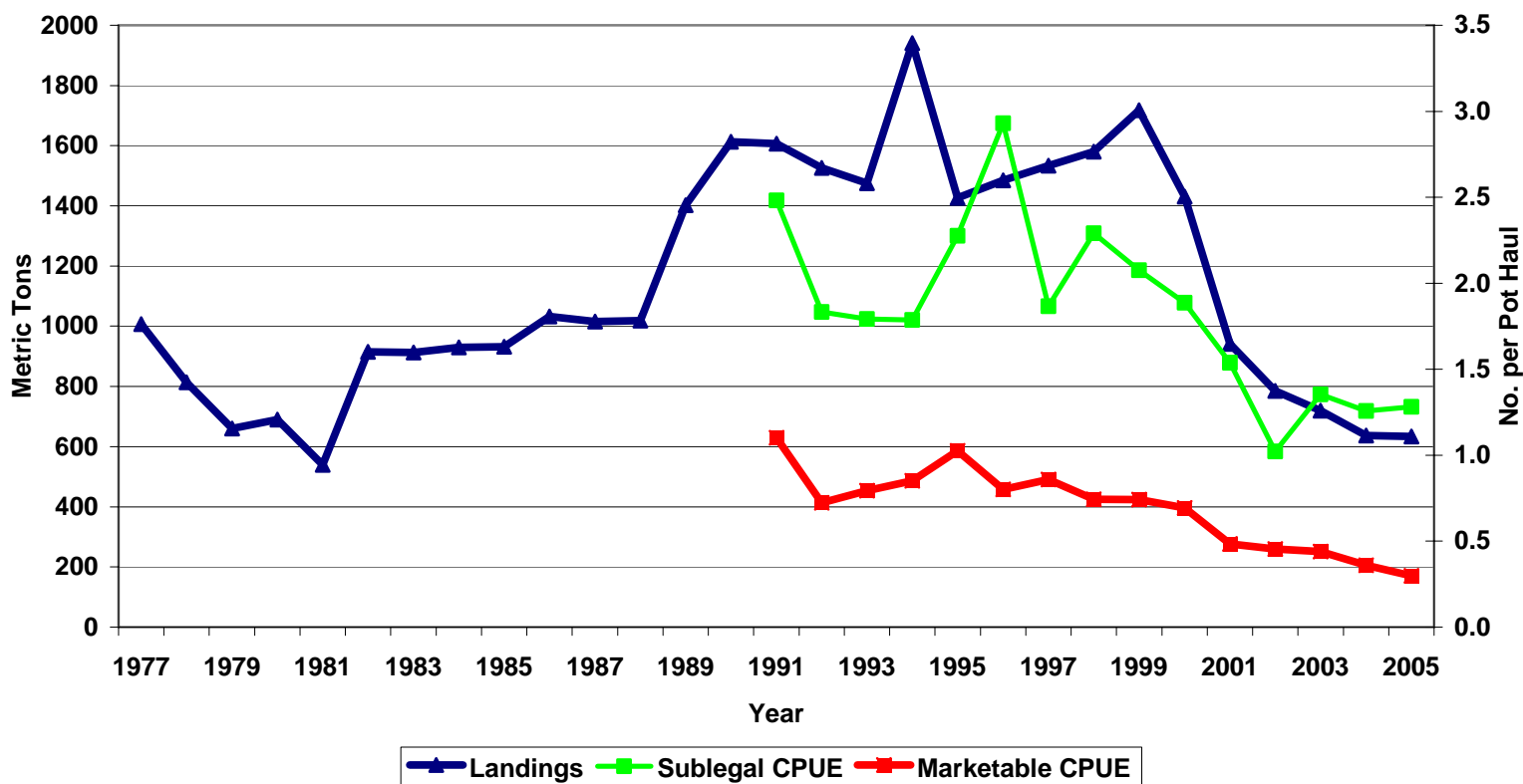


Fig.6- RI Inshore Lobster Fishing Mortality Rate from BDM Model Compared to MSY Level

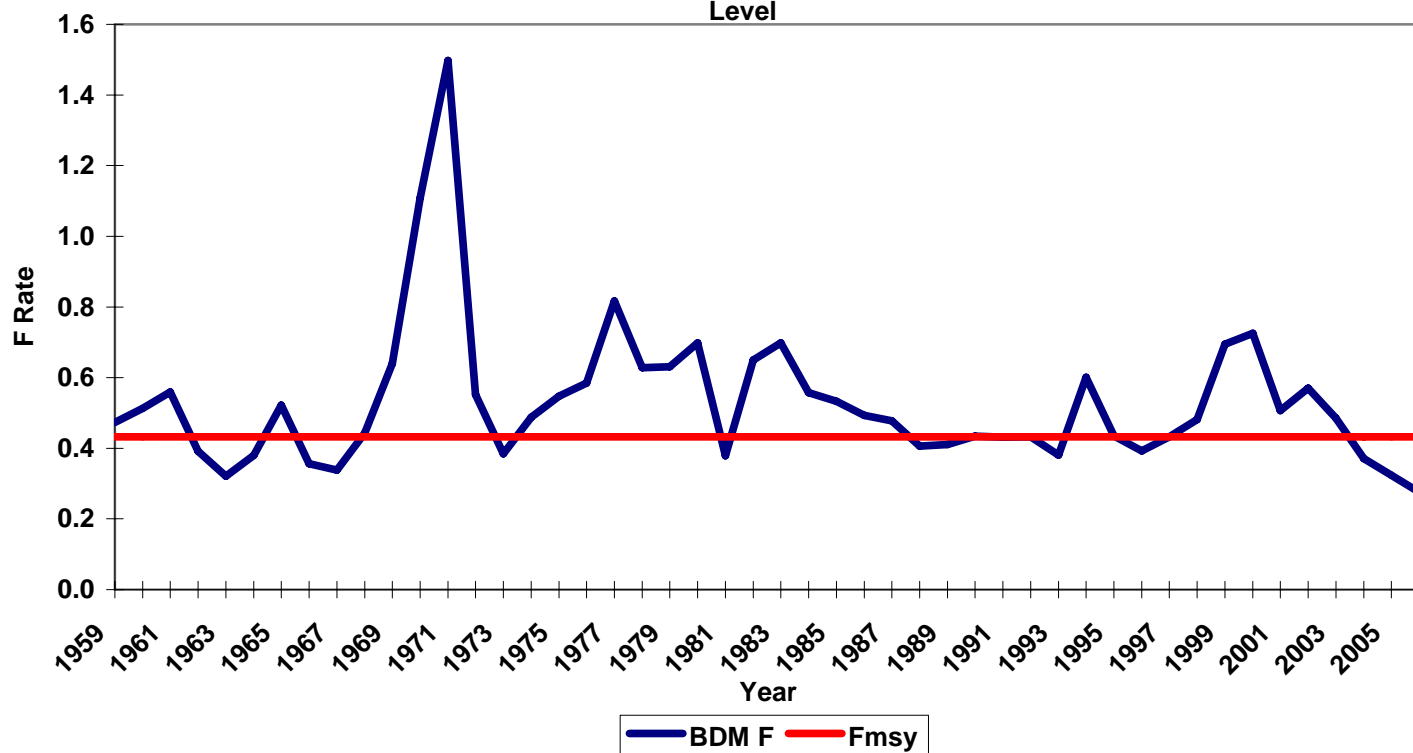


Fig. 7- Estimates of Fishing Effort in the RI Inshore Lobster Fishery

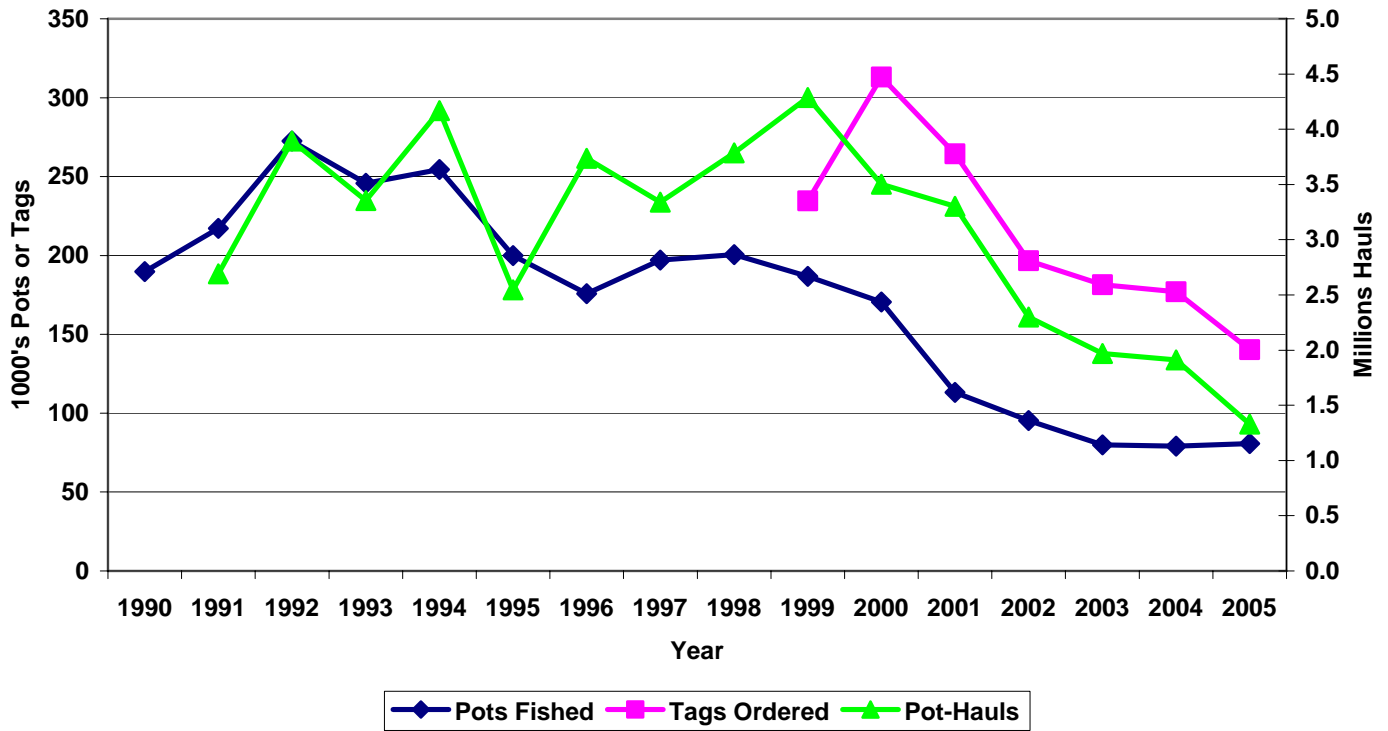


Fig.8- RI Inshore Lobster Absolute Abundance and Landings from BDM Model Compared to Bmsy

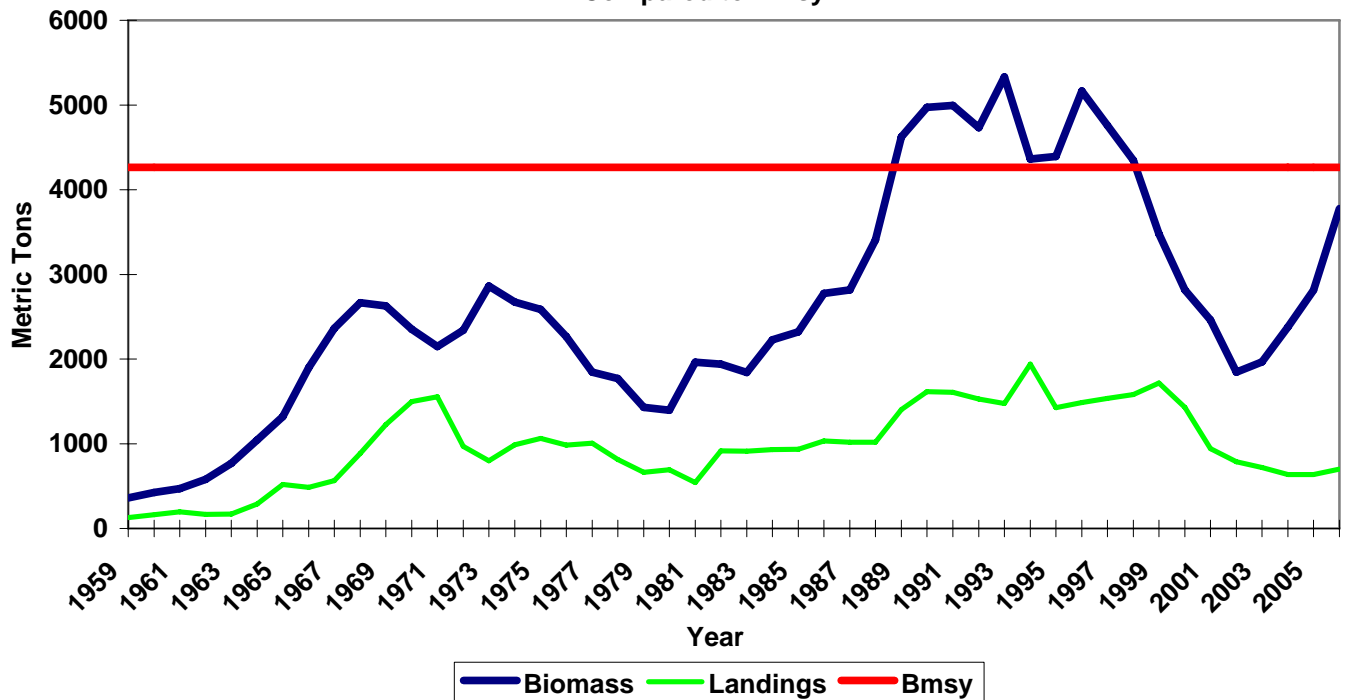


Fig.9- RI Inshore Lobster Stock Abundance and Landings Projection with Status Quo F in 2005. Assumes Normal Stock Productivity

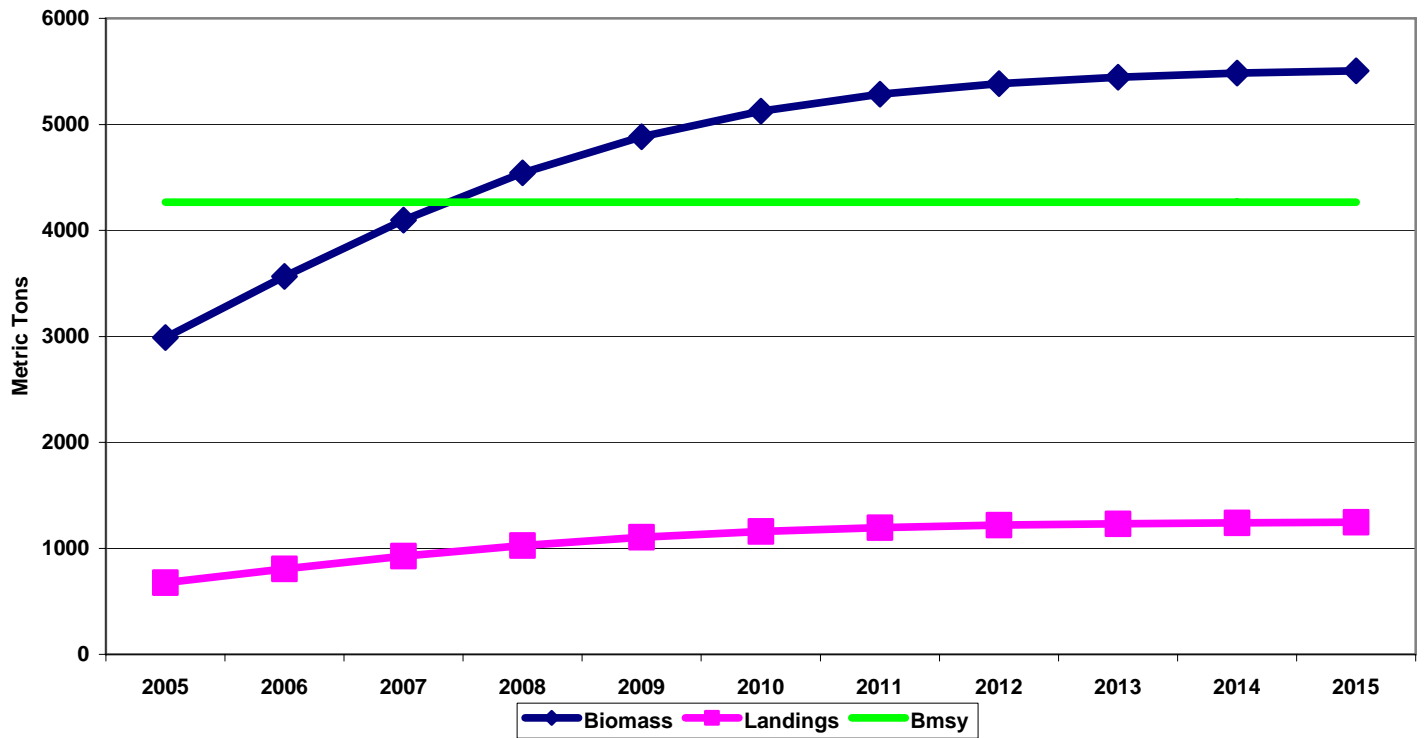


Fig.10- Proportion of Total Area 2 Eggs Carried by V-notch Females

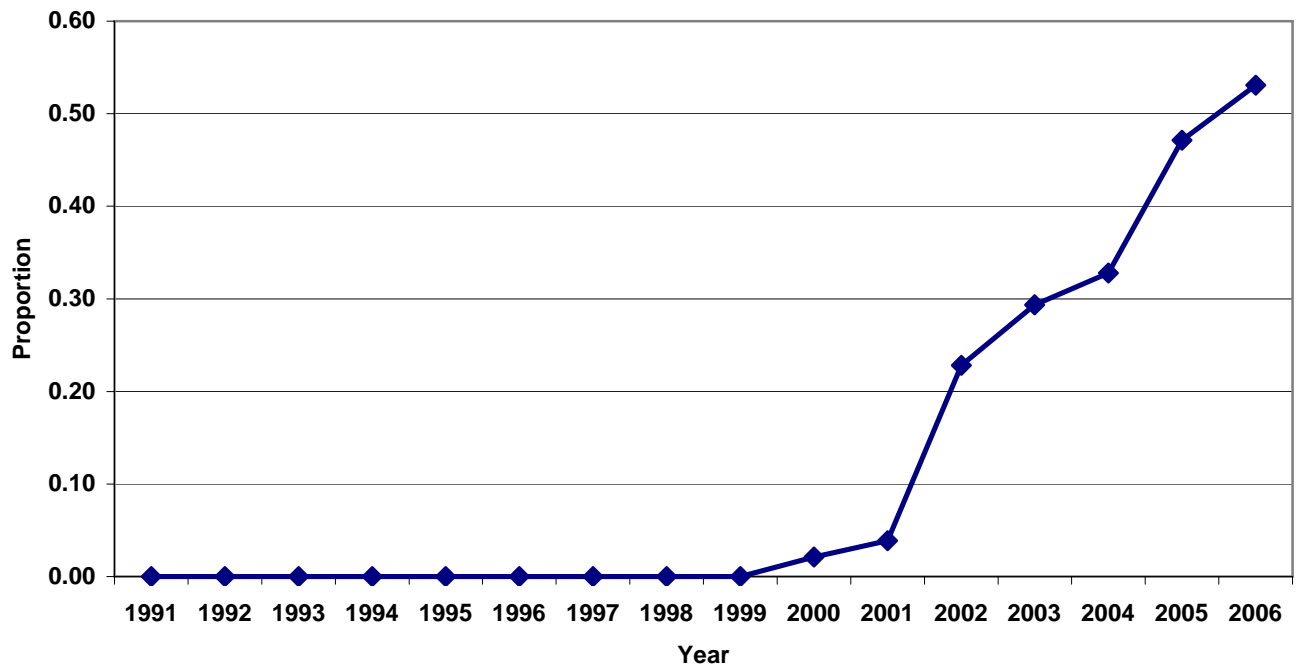


Fig-11- RI Cancer Crab Fishing Mortality Rate Compared to MSY Reference Level

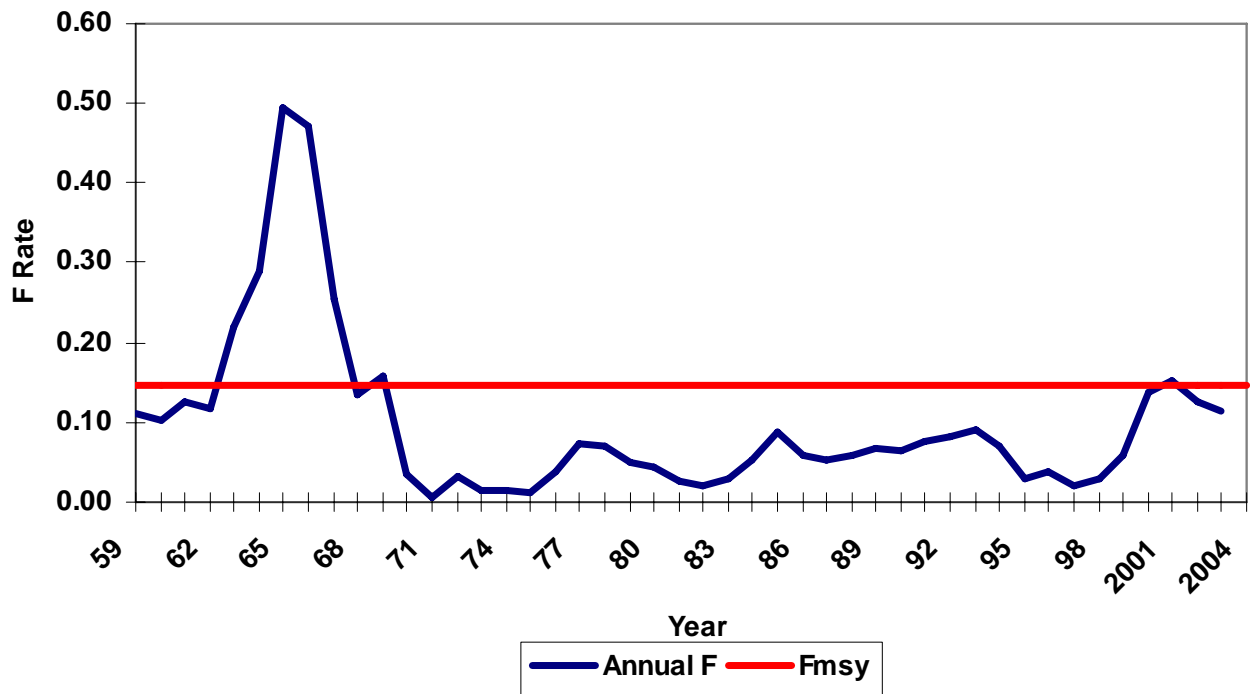


Fig.12- RI Cancer Crab Abundance and Landings Compared to MSY Reference Level

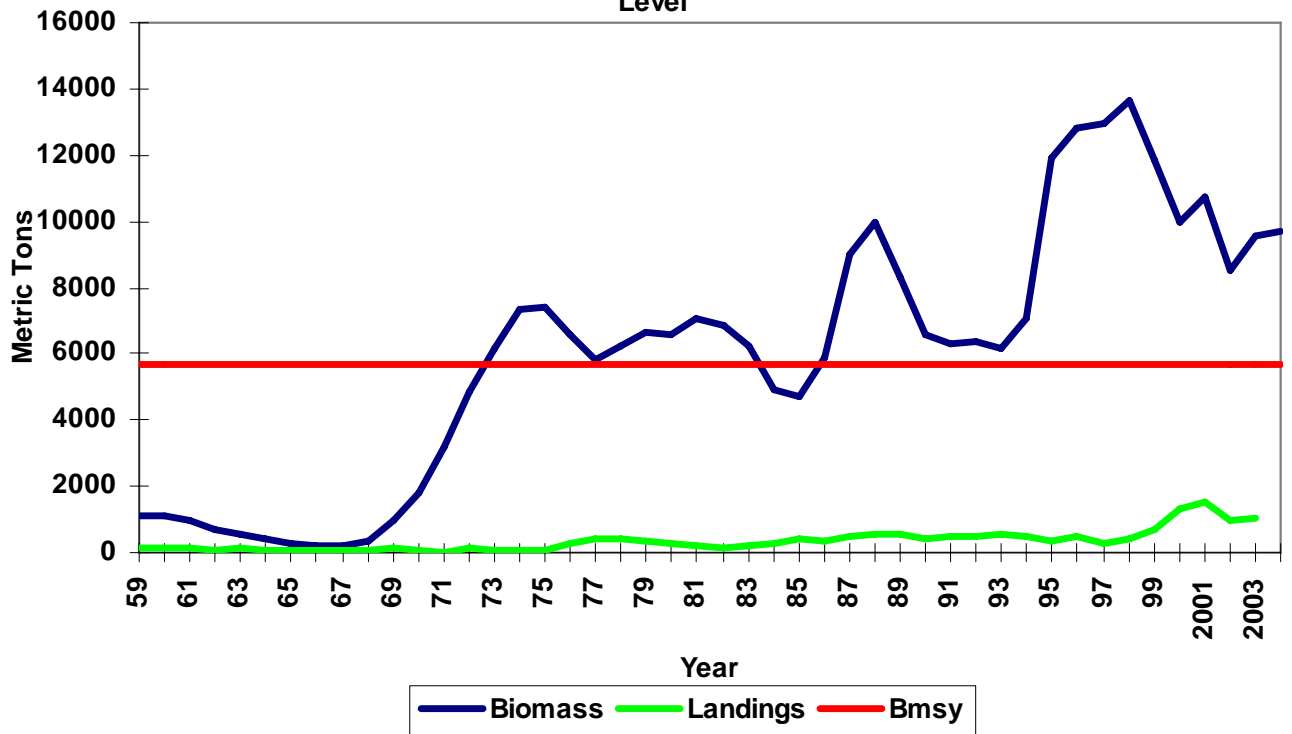


Fig.13- RI Horshoe Crab Abundance and Landings Compared to MSY Reference

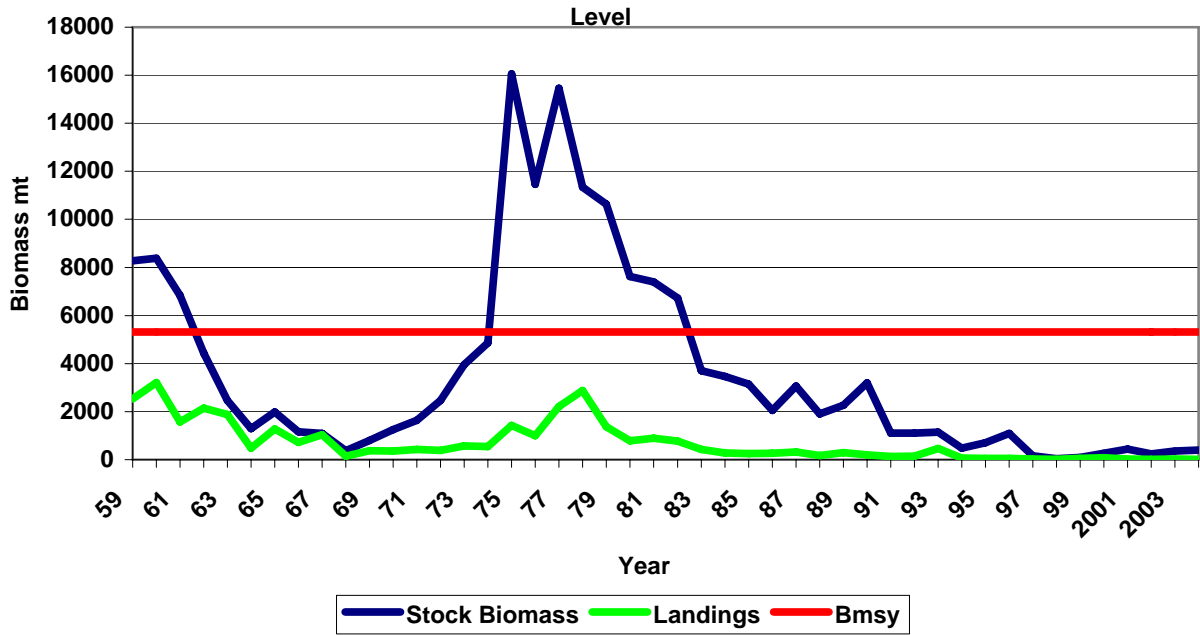
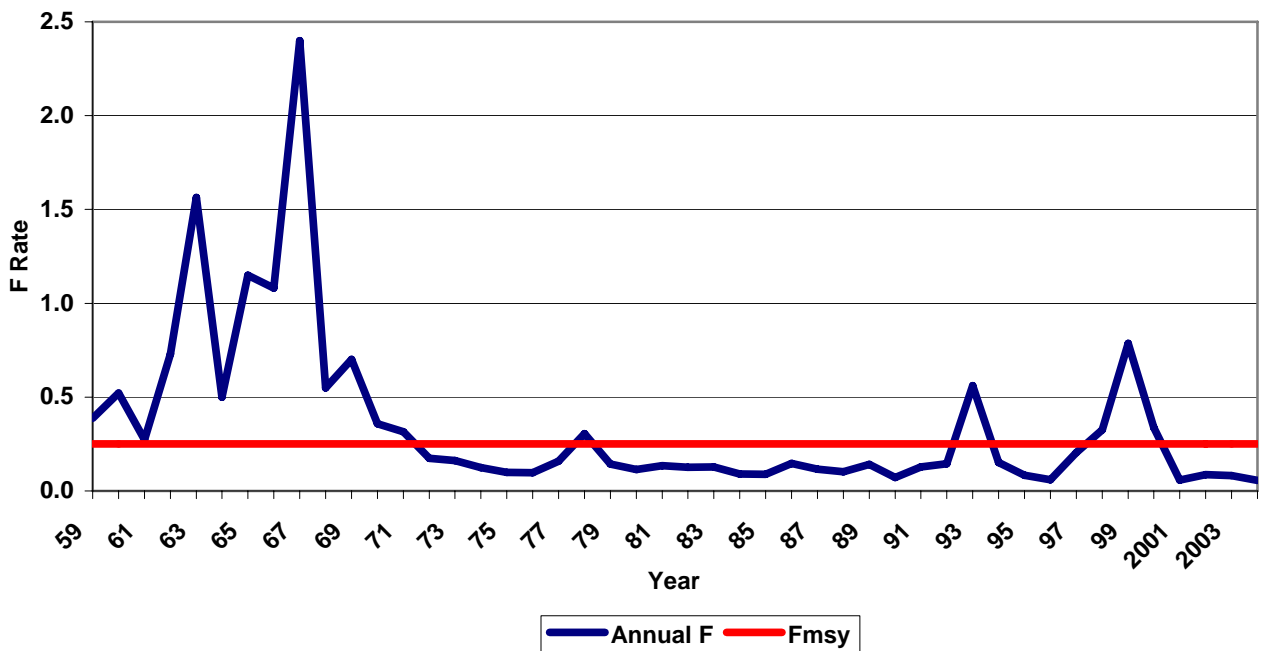


Fig.14- RI Horshoe Crab Fishing Mortality Rate Compared to MSY Reference Level



Rule 8. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this 7th day of December 2007 to become effective 20 days from filing, unless **otherwise indicated below**, in accordance with the provisions of Chapter 42-17.1, Section 20-1-4, Section 20-2.1 and Public Laws Chapter 02- 047, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

W. Michael Sullivan
Director, Department of Environmental Management

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Public Hearing: 10/24/2007

Filing date: 12/07/2007
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